

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 1. RADIATION REGULATORY AGENCY

Editor's Note: The following Notice of Proposed Rulemaking was reviewed per Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 2127.) The Governor's Office authorized the notice to proceed through the rulemaking process on May 30, 2014.

[R14-107]

PREAMBLE

- 1. Article, Part or Sections Affected (as applicable)**

	<u>Rulemaking Action</u>
R12-1-1215	Amend
Table A	Amend
R12-1-1302	Amend
R12-1-1306	Amend
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**

Authorizing statute: A.R.S. § 30-654(B)(5)
Implementing statutes: A.R.S. §§ 30-651, 30-654, 30-657, 30-671(B), 30-672, 30-673, 30-681, 30-687, 30-688, and 30-689.
- 3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**

Notice of Rulemaking Docket Opening: 20 A.A.R. 2121, August 8, 2014 (*in this issue*).
- 4. The agency's contact person who can answer questions about the rulemaking:**

Name: Jerry W. Perkins
Address: Radiation Regulatory Agency
4814 S. 40th St.
Phoenix, AZ 85040
Telephone: (602) 255-4845, ext. 272
Fax: (602) 437-0705
E-mail: jperkins@azrra.gov
Website: www.azrra.gov
- 5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

This rulemaking package amends several rules to modify the existing fee structure for non-ionizing devices related to radio frequency coagulators. The changes are being made to reduce the fees to a level more appropriate with the regulatory requirement and workload related to these units.
- 6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None

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7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact: summary of the economic, small business, and consumer impact:

Currently, all registrants pay an annual fee which covers the administrative cost and inspection fees for each facility registration number. This package reduces the fee table for radio frequency devices by dividing these units from the current medical fee grouping. No new FTEs were needed for this rulemaking package so additional notice was not sent to Joint Legislative Budget Committee (JLBC).

9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:

Name: Jerry W. Perkins
Address: Radiation Regulatory Agency
4814 S. 40th St.
Phoenix, AZ 85040
Telephone: (602) 255-4845 ext. 272
Fax: (602) 437-0705
E-mail: jperkins@azrra.gov
Website: www.azrra.gov

10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

An oral proceeding at the Arizona Radiation Regulatory Agency will be scheduled for 9:30 a.m. on September 8, 2014, at 4814 S. 40th St., Phoenix, AZ. A person may also submit written comments concerning the proposed rules by submitting them no later than 5:00 p.m., September 7, 2014, to the following person:

Name: Aubrey V. Godwin, Director
Address: Radiation Regulatory Agency
4814 S. 40th St.
Phoenix, AZ 85040
Telephone: (602) 255-4845
Fax: (602) 437-0705

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The Agency believes that it is exempt from A.R.S. §§ 41-1037 due to paragraph (A)(2) as the issuance of an alternative type of permit is authorized under the statutory requirement of A.R.S. §§ 30-672 to protect the public health and safety.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

The rule amendments are compatible with existing federal regulations and are not more stringent in sections that have a federal equivalent. Currently the regulation of radiation producing equipment is conducted at the state level and federal regulations only govern the manufacture of radiation producing electronic devices that produce non-ionizing radiation.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No analysis has been submitted.

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

Not applicable

13. The full text of the rules follows:

TITLE 12. NATURAL RESOURCES

CHAPTER 1. RADIATION REGULATORY AGENCY

ARTICLE 12. ADMINISTRATIVE PROVISIONS

Section

R12-1-1215. License and Registration Divisions

Table A. Registration and Licensing Time-frames

ARTICLE 13. LICENSE AND REGISTRATION FEES

Section

R12-1-1302. License and Registration Categories

R12-1-1306. Table of Fees

ARTICLE 12. ADMINISTRATIVE PROVISIONS

R12-1-1215. License and Registration Divisions

A. Each registrant or license type is classified into one of three administrative sanction divisions.

1. Division I licenses and registrations:

- a. No change
- b. No change
- c. No change
- d. No change
- e. No change
- f. No change
- g. No change
- h. No change
- i. No change
- j. No change
- k. No change
- l. No change
- m. No change
- n. No change
- o. No change
- p. No change
- q. No change
- r. No change
- s. No change
- t. No change
- u. No change

2. Division II licenses and registrations:

- a. No change
- b. No change
- c. No change
- d. No change
- e. No change
- f. No change
- g. No change
- h. No change
- i. No change
- j. No change
- k. No change
- l. No change
- m. No change
- n. No change
- o. No change
- p. No change

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- q. No change
- r. No change
- s. No change
- t. No change
- u. No change
- 3. Division III licenses and registrations:
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
 - h. No change
 - i. No change
 - j. No change
 - k. No change
 - l. No change
 - m. No change
 - n. No change
 - o. No change
 - p. No change
 - q. No change
 - r. No change
 - s. No change
 - t. No change
 - u. Class A Medical (non-cosmetic) Radiofrequency Facility
 - v. Class B Medical (non-cosmetic) Radiofrequency Facility
 - w. Class C Medical (non-cosmetic) Radiofrequency Facility
 - x. Class D Medical (non-cosmetic) Radiofrequency Facility

Table A. Registration and Licensing Time-frames

REGISTRATION AND LICENSING TIME-FRAMES

License or Registration category in R12-1-1306	Administrative Completeness		
	Review Time-frame, in days	Substantive Review Time-frame, in days	Overall Time-frame, in days
A1	90	30	120
A2	90	30	120
A3	90	30	120
A4	60	30	90
B1	90	30	120
B2	90	30	120
B3	90	30	120
B4	90	30	120
B5	90	30	120
B6	40	20	60
C1	60	30	90
C2	60	30	90
C3	60	30	90
C4	60	30	90
C5	60	30	90
C6	60	30	90
C7	60	30	90
C8	90	30	120

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C9	60	30	90
C10	40	20	60
C11	90	30	120
C12	90	30	120
C13	90	30	120
C14	90	30	120
C15	90	30	120
C16	90	30	120
C17	90	30	120
D1	90	30	120
D2	90	30	120
D3	90	30	120
D4	40	20	60
D5	40	20	60
D6	90	30	120
D7	40	20	60
D8	60	30	90
D9	90	30	120
D10	90	30	120
D11	1095	365	1460
D12	730	180	910
D13	365	90	455
D14	90	30	120
D15	40	20	60
D16	20	10	30
D17	40	20	60
D18	90	30	120
D19	365	120	485
E1	40	20	60
E2	40	20	60
E3	40	20	60
E4	40	20	60
E5	90	30	120
E6	90	30	120
F1	40	20	60
F2	40	20	60
F3	40	20	60
F4	40	20	60
F5	20	10	30
F6	40	20	60
F7	40	20	60
F8	40	20	60
F9	40	20	60
F10	40	20	60
F11	40	20	60
<u>F12</u>	<u>40</u>	<u>20</u>	<u>60</u>
<u>F13</u>	<u>40</u>	<u>20</u>	<u>60</u>
<u>F14</u>	<u>40</u>	<u>20</u>	<u>60</u>
<u>F15</u>	<u>40</u>	<u>20</u>	<u>60</u>

F42 16

90

30

120

Footnote: No change

ARTICLE 13. LICENSE AND REGISTRATION FEES

R12-1-1302. License and Registration Categories

- A.** No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
- B.** No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
 - 6. No change
- C.** No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
 - 6. No change
 - 7. No change
 - 8. No change
 - 9. No change
 - 10. No change
 - 11. No change
 - 12. No change
 - 13. No change
 - 14. No change
 - 15. No change
 - 16. No change
 - 17. No change
- D.** No change
 - 1. No change
 - a. No change
 - b. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
 - 6. No change
 - 7. No change
 - 8. No change
 - 9. No change
 - 10. No change
 - 11. No change
 - 12. No change
 - 13. No change
 - 14. No change
 - 15. No change
 - 16. No change
 - 17. No change
 - 18. No change
 - 19. No change
- E.** No change

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1. No change
 2. No change
 3. No change
 4. No change
 5. No change
 6. No change
- F. Category F registrations are those that register nonionizing radiation producing sources regulated under 12 A.A.C. 1, Article 14. The Agency shall not combine Category F registrations with any other registration categories that have a difference in fee per unit.
1. No change
 2. No change
 3. No change
 4. No change
 5. No change
 6. No change
 7. No change
 8. No change
 9. No change
 10. No change
 11. No change
 12. A class A medical radiofrequency device registration authorizes the operation of one or two radiofrequency diathermy or electrocoagulation units not used in non-ionizing cosmetic procedures.
 13. A class B medical radiofrequency device registration authorizes the operation of three to nine radiofrequency diathermy or electrocoagulation units not used in non-ionizing cosmetic procedures.
 14. A class C medical radiofrequency device registration authorizes the operation of 10 to 19 radiofrequency diathermy or electrocoagulation units not used in non-ionizing cosmetic procedures.
 15. A class D medical radiofrequency device registration authorizes the operation of 20 or more radiofrequency diathermy or electrocoagulation units not used in non-ionizing cosmetic procedures.
 - ~~12-16.~~ An “other” non-ionizing radiation device authorizes the operation of a Nonionizing radiation device or other device not included in any other category specified in subsection (F).

R12-1-1306. Table of Fees

A. The application and annual fee for each category and type are shown in Table 13-1.

Category	Type	Annual fee		
A1.	Broad academic class A	\$5,800	C17.	Laboratory \$1,000
A2.	Broad academic class B	\$5,800		
A3.	Broad academic class C	\$5,800	D1.	Distribution \$2,600
A4.	Limited academic	\$1,000	D2.	Nuclear pharmacy \$4,600
			D3.	Nuclear laundry \$10,300
B1.	Broad medical	\$11,000	D4.	General industrial (with fee) . . . \$300
B2.	Medical materials class A	\$1,900	D5.	General depleted uranium \$200
B3.	Medical materials class B	\$1,900	D6.	Veterinary medicine \$1,000
B4.	Medical materials class C	\$1,900	D7.	General veterinary medicine . . . \$200
B5.	Medical teletherapy	\$5,200	D8.	Health physics class A \$3,200
B6.	General medical	\$250	D9.	Health physics class B \$1,000
			D10.	Secondary uranium recovery . . . \$5,100
C1.	Broad industrial class A	\$11,400	D11.	Low-level radioactive waste disposal site (3)
C2.	Broad industrial class B	\$11,400		
C3.	Broad industrial class C	\$3,200	D12.	Waste processor class A \$4,600
C4.	Limited industrial	\$700	D13.	Waste processor class B \$3,600
C5.	Portable gauge	\$1,000	D14.	Additional storage and use site . . (1)
C6.	Fixed gauge class A	\$1,000	D15.	Possession only (2)
C7.	Fixed gauge class B	\$1,000	D16.	Reciprocal (3)
C8.	Leak detector	\$1,330	D17.	Reserved
C9.	Gas chromatograph	\$1,000	D18.	Unclassified Full Cost
C10.	General industrial	No Fee	D19.	NORM commercial disposal site \$600,000
C11.	Industrial radiography class A . . . \$5,500			
C12.	Industrial radiography class B . . . \$5,500		E1.	X-ray machine class A (per tube) \$75
C13.	Open field irradiator \$3,000		E2.	X-ray machine class B (per tube) \$51
C14.	Self-shielded irradiator \$1,500		E3.	X-ray machine class C (per tube) \$42
C15.	Well logging \$2,000		E4.	Industrial radiation machine
C16.	Research and development \$2,100			

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	(per device) \$42				radiofrequency devices) \$70
E5.	Accelerator facility \$750		F10.	Class B industrial (6 to 20	radiofrequency devices) \$210
E6.	Other ionizing radiation machine Full Cost		F11.	Class C industrial more than 20	radiofrequency devices) \$349
F1.	Tanning device (per device) \$28		F12.	Class A medical (1 or 2 non-cosmetic radiofrequency	devices) (per device) \$47
F2.	Class A (1 to 10 laser devices) . . . \$175		F13.	Class B medical (3 to 9 non-cosmetic radiofrequency	devices) \$120
F3.	Class B (11 to 49 laser devices) . . \$408		F14.	Class C medical (10 to 19 non-cosmetic	radiofrequency devices) \$295
F4.	Class C (50 or more laser		F15.	Class D medical (20 or more non-cosmetic	radiofrequency devices) \$470
	devices) \$699			Other nonionizing radiation	
F5.	Laser light show or laser		F12 <u>16.</u>	device or other device Full Cost	
	demonstration \$408				
F6.	Medical laser (per laser device) . . \$47				
F7.	Class II surgical (per device) . . . \$47				
F8.	Medical RF <u>surgical and cosmetic</u> (per device) \$47				
F9.	Class A industrial (1 to 5				

- Notes: (1) No change
(2) No change
(3) See R12-1-1307.

- B.** No change
C. No change